



DISASTER
RECOVERY
SERVICES

Flood Recovery Check-In

Topic – FEMA’s Requirement to Obtain and Maintain Insurance

June 18, 2024



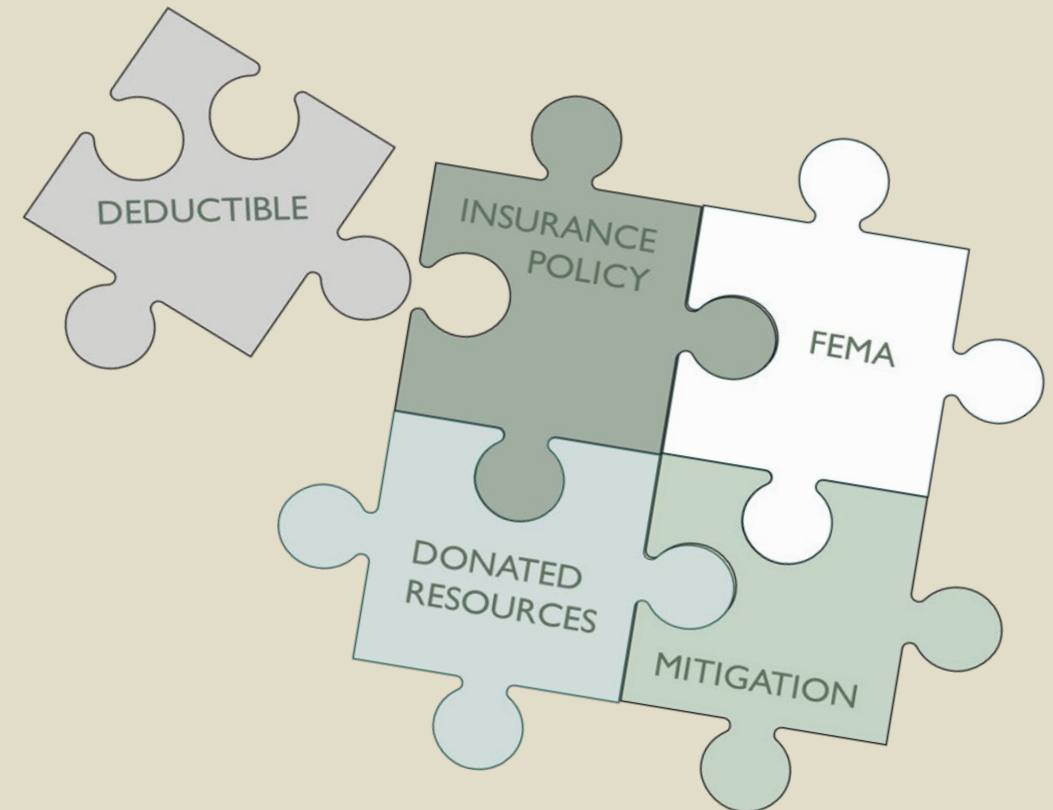
The Disaster Recovery Puzzle / Where Does FEMA Fit?

What is FEMA's Role in the Recovery Puzzle?

FEMA may address.....

- Insurance Policy Deductibles*
- Policy Exclusions (asbestos, mold, etc.)
- Losses Measured In Excess of Policy Limits or Sub-Limits
- Uninsurable Assets (debris, roads, infrastructure)
- Locations Not Listed on Schedule of Values
- Hazard Mitigation Projects (HMP) / FEMA Only

**FEMA will not pay for a deductible in a subsequent "same peril" event unless that deductible can be attributed to locations that were not involved in a prior event.*





Public Assistance Program and Policy Guide

Version 4, Effective June 1, 2020

(FP 104-009-2)



FEMA carries
"conditions" for
receiving Public
Assistance!

PAPPGv4, page 144:

II. Requirement to Obtain and Maintain Insurance

Applicants that receive PA funding for permanent work to replace, repair, reconstruct, or construct a facility must obtain and maintain insurance to protect the facility against future loss.²⁶⁷ This requirement applies to insurable facilities or property (buildings, contents, equipment, and vehicles), including those funded as an Alternate, Improved, or Alternative Procedures Project. FP 206-086-1 *Public Assistance Policy on Insurance*, describes these requirements in detail.²⁶⁸

Understanding FEMA's Policy on Insurance for "Obtain & Maintain"



FEMA

FP 206-086-1

RECOVERY POLICY

- I. **TITLE: Public Assistance Policy on Insurance**
- II. **DATE OF ISSUANCE:** June 29, 2015
- III. **PURPOSE:** This policy guides decision making and interprets statutes and regulations related to insurance requirements under FEMA's Public Assistance program.

Obtain & Maintain requirement is for insurable buildings, contents, equipment, and vehicles.

VII. POLICY:

PART 1: Insurance Requirements Relating to Repair, Restoration, and Replacement of Damaged Facilities (Section 311 of the Stafford Act)

- A. **The Requirement to Obtain and Maintain Insurance.** When FEMA provides an applicant assistance for permanent work to replace, restore, repair, reconstruct, or construct a facility, the applicant must insure that facility against future loss.¹ FEMA refers to this as the requirement to "obtain and maintain" insurance, or, the "insurance requirement."
 - 1. By law, applicants must comply with this requirement as a condition of FEMA assistance.²
 - 2. FEMA applies this requirement to buildings, contents, equipment, and vehicles.
 - 3. FEMA does not require applicants to obtain and maintain insurance for temporary facilities.

Understanding Future Impacts of FEMA's Policy



H. Subsequent Assistance. When a facility that received assistance is damaged by the same hazard in a subsequent disaster:

1. If the applicant failed to maintain the required insurance from the previous disaster, then the facility is not eligible for assistance in any subsequent disaster (see Section G of this part).¹⁷

Failure to carry adequate insurance will impact the ability to recover FEMA funding in a future event.

Understanding Future Impacts of FEMA's Policy



H. Subsequent Assistance. When a facility that received assistance is damaged by the same hazard in a subsequent disaster:

2. Upon proof that the applicant maintained its required insurance, FEMA will reduce assistance in the subsequent disaster by the amount of insurance required in the previous disaster regardless of:
 - a. The amount of any deductible or self-insured retention the applicant assumed (i.e., “retained risk”);
 - b. The method of coverage the applicant chose in order to comply with the requirement (for example, commercial property insurance, which may include blanket policies; standard flood insurance policies; insurance pools; an approved self-insurance plan; or a combination thereof);¹⁸ or

Grants Portal Example



\$ Scope & Cost Summary ▾

Scope **Cost**


Damage #	Line Item #	Code	Quantity	Unit	Total Cost	Section	Version
1306535	1	9001 (Contract)	1	Lump Sum	\$8,057,958.09	Completed	0

Category E – Permanent Work Facility Repair Project where \$5M of blanket flood coverage was available to spread across 20 different building locations.

	Previous	1	Next
CRC GROSS COST		\$8,057,958.09	
TOTAL 406 HMP COST		\$0.00	
TOTAL INSURANCE REDUCTIONS		\$-2,518,665.98	
<hr/>			
CRC NET COST		\$5,539,292.11	
i FEDERAL SHARE (90.00%)		\$4,985,362.90	
NON-FEDERAL SHARE (10.00%)		\$553,929.21	

Grants Portal Example



 Insurance Profile ▼

✓ Submitted on 5/20/2024 8:42 am by HARNESS, MALIK J.

Insurance Information

Damage Inventory

Insurance Documents

Insurance Summary

Insurance Report

Prior Obtain and Maintain Requirement:

No prior insurance requirements were found for this facility.

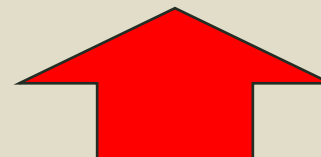
Reduction(s):

A reduction is being made for the Commercial actual insurance proceeds in the amount of \$2,518,665.98.

Obtain and Maintain Requirement:

An Obtain & Maintain Requirement is being required for Building, for the peril of Flood for The Harbour NCESS in the amount of \$8,057,958.09 (Insurable Repair Amount \$8,057,958.09 + Insurable HMP Amount \$0.00)

Note that Obtain & Maintain is based on GROSS VALUE!



Code of Federal Regulation Title 44 § 206.250 – 206.253



§ 206.252 Insurance requirements for facilities damaged by flood:

(d) The recipient or subrecipient is required to obtain and maintain flood insurance in the amount of eligible disaster assistance, as a condition of receiving Federal assistance that may be available. This requirement also applies to insurable flood damaged facilities located outside a special flood hazard area when it is reasonably available, adequate, and necessary. However, the Regional Administrator shall not require greater types and amounts of insurance than are certified as reasonable by the State Insurance Commissioner. The requirement to purchase flood insurance is waived when eligible costs for an insurable facility do not exceed \$5,000.

§ 206.253 for Non-Flood disasters explains how the “extent of insurance is based on the eligible damage that was incurred at the damaged facility.”

Timing for Obtain and Maintain Requirements



F. **Timeframes for Obtaining Insurance.** FEMA will only approve assistance under the condition that an applicant obtains and maintains the required insurance.¹²

1. The applicant must document its commitment to comply with the insurance requirement with proof of insurance.
2. If an applicant cannot insure a facility prior to grant approval (for example, if a building is being reconstructed), the applicant may provide a letter of commitment stating that they agree to the insurance requirement and will obtain the types and extent of insurance required, followed at a later date by proof of insurance once it is obtained. In these cases, the applicant should insure the property:
 - a. When the applicant resumes use of or legal responsibility for the property (for example, per terms of construction contract or at beneficial use of the property); or
 - b. When the scope of work is complete.
3. FEMA and the recipient will verify proof of insurance prior to grant closeout to ensure the applicant has complied with the insurance requirement.¹³

Insurance compliance should not be an afterthought. Proper planning is essential.

Updates to PACIF Flood Coverage



- PACIF increased Flood Zone A annual aggregate from \$5,000,000 to \$10,000,000.
- \$1,000,000 limit per member per occurrence, subject to the higher \$10M Flood Zone A aggregate.
- Even with increased flood limits, coverage may be insufficient to meet FEMA's Obtain & Maintain requirements.
- NFIP coverage cannot be "waived".
- Consider pursuing "certification" from The Insurance Division of Vermont.

Insurance should be reasonable and affordable!

E. State Insurance Commissioner Certifications. FEMA will not require greater types and amounts of insurance than are certified as reasonably available, adequate, or necessary by the appropriate State insurance commissioner.¹⁰ The State insurance commissioner cannot waive Federal insurance requirements, but may certify the types and extent of insurance reasonable to protect against future loss to an insurable facility.¹¹

Lessons Learned Assisting After Major Loss Events



- ✓ Leverage FEMA for deductibles and any losses above limit / sublimits.
- ✓ Use Category B work to erode deductibles to avoid Obtain & Maintain.
- ✓ Make sure Procurement has a seat at the table.
- ✓ Consider standby contracts (no cost) using pre-disaster rates for remediation and debris removal contractors and even claim consultants.



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